

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CASE NO. 4:23CR000316 JAR
v.)	
)	
DIRELL ALEXANDER,)	
)	
Defendant.)	

GOVERNMENT'S MOTION FOR INQUIRY

COMES NOW the United States of America, by and through its attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Christine Krug, Assistant United States Attorney for said District, and requests the Court conduct an inquiry of the defendant regarding a potential conflict summarized below:

1. Defendant is charged with violating the civil rights of O.R. by using unreasonable force against him, in violation of Title 18, United States Code, Section 242. Attorney Terence Niehoff represents the defendant and has been his counsel throughout the case.
2. In addition to his representation of defendant, Mr. Niehoff previously represented the victim, O.R., in 2016 when O.R. was charged with an unrelated stealing charge.
3. It is anticipated that O.R. will testify at trial and Mr. Niehoff would cross-examine O.R. Although the Government does not believe that O.R.'s previous conviction for stealing would be proper impeachment in this case, it is possible that Mr. Niehoff may attempt to cross-examine O.R. regarding that conviction, where he was O.R.'s attorney of record. Alternatively, Mr. Niehoff may have information related to O.R. that he obtained during

privileged communications when O.R. was his client. Because that privilege belongs to O.R. and Mr. Niehoff owes his former client a duty of loyalty in that regard, a potential conflict may exist in Mr. Niehoff's representation of defendant as he would be barred from cross-examining O.R. based on any information learned through privileged communications.

4. Mr. Niehoff informed the Government that he and defendant Alexander have discussed this potential conflict, and per Mr. Niehoff, the defendant has knowingly waived any conflict. The Government requests a hearing on this issue at which the Court can conduct a colloquy with defendant and advise him of the restrictions Mr. Niehoff would face in cross-examining O.R.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court conduct an inquiry regarding this potential conflict. The parties can be available prior to the Pre-Trial Conference currently scheduled for September 12, 2024, should the Court desire an earlier resolution.

Respectfully submitted,

SAYLER A. FLEMING
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2024, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Terence Niehoff, Attorney for Defendant.

/s/ Christine H. Krug

CHRISTINE H. KRUG #42586MO